

Franchise Agreements Between RV Dealers and Manufacturers

New Legislation

Legislation effective January 1, 2009, prohibits a dealer from selling a new recreational vehicle (RV) in the state without first entering into a written recreational vehicle franchise agreement with a licensed RV manufacturer, manufacturer branch, distributor, or distributor branch that is signed by both parties.

Changes

Significant changes to the *California Vehicle Code* are as follows:

- Defines a “recreational vehicle franchise agreement” as a written agreement between two or more persons that contains both:
 - A commercial relationship of definite duration or continuing indefinite duration.
 - Provides the franchisee the right to offer for sale or lease, or to sell or lease at retail, new RVs, as defined in subdivision (a) of Section 18010 of the *California Health and Safety Code*, that are manufactured or distributed by the franchisor, or provides the right to perform authorized warranty repair service, or the right to perform any combination of these activities.
- Prohibits a licensed manufacturer, manufacturer branch, distributor, or distributor branch from selling a new RV in the state without first entering into a written recreational vehicle franchise agreement with an RV dealer that complies with the provisions of a recreational vehicle franchise agreement that has also been signed by both parties.
- Prohibits a dealer from selling a new RV in the state without first entering into a written recreational vehicle franchise agreement with a licensed RV manufacturer, manufacturer branch, distributor, or distributor branch that complies with the provisions of a recreational vehicle franchise agreement that has also been signed by both parties.
- Permits any new RV inventory that has been purchased by an RV dealer or shipped by a manufacturer prior to January 1, 2009, to be sold at any time without a written franchise agreement.

A copy of the legislation may be obtained at the California Legislative Information website at: <http://www.leginfo.ca.gov/bilinfo.html>.

Background

The California New Motor Vehicle Board (NMVB) has independent authority to resolve certain disputes between franchised new motor vehicle, motorcycle, ATV, and RV franchisees and their franchisors.

However, the NMVB will only adjudicate disputes provided there is a written agreement signed by both parties. Most manufacturers have written agreements with dealers but some still operate with verbal agreements making disputes hard to resolve.

Legislation effective January 1, 2008, required written agreements between the RV dealers and manufacturers, but did not stipulate that the agreement must be signed. While most manufacturers provided signed agreements, some manufacturers failed to adhere to the intent of the law by not signing the agreements. Without a signed agreement, neither the manufacturer nor a dealer can have a dispute resolved by the NMVB.

Distribution

Notification that this memo is available online at dmv.ca.gov/pubs/olin/olin.htm and was made available via e-mail alert in November 2008, to the following:

- Dealers
- Manufacturers
- Distributors

References

California Vehicle Code §§331.3, 11713.22, and 11713.23
OLIN 2007-11

Contact

Questions regarding relations between dealers, distributors, and manufacturers subject to NMVB jurisdiction should be directed to (916) 445-1888.

All other questions should be directed to the Occupational Licensing Compliance Unit at (916) 229-3154.

A handwritten signature in black ink, appearing to read 'Mary Garcia', with a stylized, cursive script.

MARY GARCIA, Chief
Occupational Licensing